IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14492 of 2004

Between:

P.M.Bhaskar, s/o.P.Erranna,
Peddamudium Village & Mandal, Cuddapah Dist.

..... PETITIONER

AND

The Revenue Divisional officer, Jammaladugu, Cuddapah Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Certiorari to call for the records of No.Ref.B/841/2004 dated 09-08-2004 issued by the respondent herein and quash the same.

Counsel for the Petitioner: MR.V.H.V.R.R.SWAMY

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

The Court made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.14492 OF 2004

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner is an authorized dealer of the fair price shops of 1 and 2 wards of Peddamudium village and Mandal of Kadapa district. The Revenue Divisional Officer has suspended his authorization by proceedings dated 9.8.2004, which is under challenge in this writ petition.

A perusal of the impugned order shows that in pursuance of a news item published in Telugu daily Vartha dated 3.8.2004 as to the misappropriation of rice by the revenue staff, the Mandal Revenue Officer, Peddapuram was directed to conduct enquiry and accordingly he submitted a report, dated 6.8.2004, stating that the petitioner was handed over 200 quintals of rice meant for Food-for-work scheme on

26.9.2003 and that he inspected the shop on 5.8.2004, however, at the time of the inspection, the petitioner was not available in the village. When the Mandal Revenue Officer asked the petitioner's wife to produce the Sales & Stock Registers, she stated that she does not know anything about them. The Mandal Revenue Officer also reported that the 200 quintals of rice released under Food-for-Work scheme was not available nor the coupons were handed over by the petitioner. On the basis of the said report, the Revenue Divisional officer arrived at a conclusion that the petitioner has failed to account for 200 quintals of Food-for-work rice and since there is no ground balance at the time of the inspection, the petitioner has violated the conditions of authorization and a prima facie case of contravention of Control Order is made out and accordingly, the authorization of the petitioner has been suspended pending enquiry by order dated 9.8.2004.

The learned counsel for the petitioner vehemently contends that all the allegations made against the petitioner are false and without any basis and as a matter of fact, the petitioner has distributed the entire rice released under Food-for-Work scheme and even the rice coupons are available. However since the inspection was conducted in the absence of the petitioner, there was no occasion for him to explain the said allegations.

I find force in the contention of the learned counsel for the petitioner. From the impugned order itself it is clear that the petitioner was not available at the time of the inspection. However, the Mandal Revenue Officer opined that since the 200 quintals of rice, which was released to the petitioner about an year ago on 23.9.2003, was not available in the shop and since the rice coupons were also not produced, prima facie the petitioner is guilty of contravention of the Control Order. As rightly contended by the learned Counsel for the petitioner, the said conclusion of the Mandal Revenue Officer on the basis of the inspection conducted in the absence of the petitioner without affording him an opportunity to explain the alleged misappropriation of Food For Work rice, being in violation of the principles of natural justice cannot be accepted.

Hence, the impugned order of suspension, which was passed solely on the basis of the report of the Mandal Revenue Officer, is unsustainable and liable to be set aside. However, it is always open to the respondents to proceed with the enquiry in accordance with law.

Having regard to the facts and circumstances, the impugned order is set aside and the Writ Petition is disposed of with a direction to the Revenue Divisional Officer to complete the enquiry, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order, after affording due opportunity to the petitioner to explain the allegations made against him. Till the completion of enquiry, the petitioner shall be permitted to distribute the commodities.

The writ petition is accordingly disposed of. No costs.

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(G.ROHINI,J)

Date: 28.9.2004.

Note:

Issue C.C. in one week.

B/o

Mdaa.

Copy to:

The Revenue Divisional officer, Jammaladugu, Cuddapah Dist.

2. Two C.Cs to G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT)

3. Two C.D. Copies.